

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1720

By: Brooks

AS INTRODUCED

An Act relating to child support; amending 43 O.S. 2011, Section 118F, as amended by Section 1, Chapter 87, O.S.L. 2018 (43 O.S. Supp. 2019, Section 118F), which relates to medical support order for health care coverage; requiring medical billing for child to both parents under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 2011, Section 118F, as amended by Section 1, Chapter 87, O.S.L. 2018 (43 O.S. Supp. 2019, Section 118F), is amended to read as follows:

Section 118F. A. The court shall enter a medical support order for health care coverage in any case in which an ongoing child support order is entered or modified. Medical support, for the purpose of this section, is defined as health care coverage, cash medical support, or a combination of both. For the purposes of this section:

1. "Health care coverage" includes:

a. fee for service,

- b. health maintenance organization,
- c. preferred provider organization,
- d. other types of private health insurance,
- e. government medical assistance program or health plan,
- f. Indian Health Services, and
- g. Defense Eligibility Enrollment Reporting System (DEERS).

2. "Cash medical support" means:

- a. an amount ordered to be paid toward the cost of health care coverage provided by a public entity, parent, or by a person other than the parents, or
- b. fixed periodic payments for ongoing medical costs.

B. In entering a temporary order, the court shall order that any health care coverage in effect for the child continue in effect pending the entering of a final order, unless the court finds that the existing health care coverage is not reasonable in cost or is not accessible as defined in subsection D of this section. If there is no health care coverage in effect for the child or if the health care coverage in effect is not available at a reasonable cost or is not accessible, the court shall order health care coverage for the child as provided in this section, unless the court makes a written finding that good cause exists not to enter a temporary medical support order.

C. On entering a final order, the court shall:

1 1. Make specific orders with respect to the manner in which
2 health care coverage is to be provided for the child; and

3 2. Require the parent ordered to provide health care coverage
4 for the child as provided under this section to produce evidence to
5 the court's satisfaction that the parent has applied for or secured
6 health care coverage or has otherwise taken necessary action to
7 provide for health care coverage for the child, as ordered by the
8 court.

9 D. When the court enters a medical support order, the medical
10 support order shall be reasonable in cost and accessible.

11 1. "Reasonable in cost" means that the pro rata share of the
12 actual premium cost for the child or children paid by the insured
13 does not exceed five percent (5%) of the gross income of the
14 responsible parent. To calculate the actual premium cost of the
15 health insurance, the court shall:

16 a. deduct from the total insurance premium the cost of
17 coverage for the parent and any other adults in the
18 household,

19 b. divide the remainder by the number of dependent
20 children being covered, and

21 c. multiply the amount per child by the number of
22 children in the child support case under
23 consideration.

24 2. "Accessible health care coverage" means that:

1 a. there are available providers appropriate to meet the
2 primary individual health care needs of the children
3 no more than sixty (60) miles one way from the primary
4 residence of the children.

5 b. If a parent has available health care coverage which
6 includes an option that would be accessible to the
7 child, but the parent has not currently enrolled in
8 that option, the court may require the parent to
9 change existing coverage to an option that is
10 accessible to the child.

11 3. If the parties agree or the court finds good cause exists,
12 the court may order health care coverage in excess of the five
13 percent (5%) cost standard or the sixty-mile distance standard.

14 E. The court shall consider the cost and quality of health care
15 coverage available to the parties. If both parents have health care
16 coverage available, the court shall give priority to the preference
17 of the custodial person, unless it is not in the best interest of
18 the child.

19 F. Cash medical support.

20 1. The responsible parent shall be ordered to pay cash medical
21 support when:

22 a. there is no health care plan available for the child,
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1 b. the only health care plan available for the child is a
2 governmental medical assistance program or health
3 plan, or

4 c. a party shows reasonable evidence of domestic violence
5 or child abuse, such that an order for health care
6 coverage is inappropriate and the disclosure of
7 information could be harmful to a party, custodian, or
8 child.

9 2. The cash medical support order shall not exceed the pro rata
10 share of the actual monthly medical expenses paid for the child, or
11 five percent (5%) of the gross monthly income of the obligor,
12 whichever is less.

13 3. a. In determining the actual monthly medical costs for
14 the child, the court shall determine:

15 (1) for children who are participating in a
16 government medical assistance program or health
17 plan, an amount consistent with rules promulgated
18 by the Oklahoma Health Care Authority determining
19 the rates established for the cost of providing
20 medical care through a government medical
21 assistance program or health plan, or

22 (2) for children who are not participating in a
23 government medical assistance program or health
24 plan, an amount consistent with rules promulgated

1 by the Department of Human Services determining
2 the average monthly cost of health care for
3 uninsured children.

4 b. The court may also consider:

- 5 (1) proof of past medical expenses incurred by either
6 parent for the child,
7 (2) the current state of the health of the child, and
8 (3) any medical conditions of the child that would
9 result in an increased monthly medical cost.

10 G. An order requiring the payment of cash medical support under
11 subsection F of this section shall allow the obligor to terminate
12 payment of the cash medical support if:

13 1. Accessible health care coverage for the child becomes
14 available to the obligor at a reasonable cost; and

15 2. The obligor:

- 16 a. enrolls the child in the insurance plan, and
17 b. provides the obligee and, in a Title IV-D case, the
18 Title IV-D agency, the information required under
19 paragraph 2 of subsection C of this section.

20 In Title IV-D cases, termination and reinstatement of cash
21 medical support shall be according to rules promulgated by the
22 Department of Human Services.

23 H. 1. The actual health care premium for the child shall be
24 allocated between the parents in the same proportion as their
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1 adjusted gross income and shall be added to the base child support
2 obligation.

3 2. If the obligor pays the health care premium, the obligor
4 shall receive credit against the base child support obligation for
5 the allocated share of the health care premium for which the obligee
6 is responsible.

7 3. If the obligee pays the health care premium, the obligor
8 shall pay the allocated share of the health care premium to the
9 obligee in addition to the base child support obligation.

10 4. The parent providing the health care coverage shall furnish
11 to the other parent and to the Child Support Enforcement Division of
12 the Department of Human Services, if services are being provided
13 pursuant to Title IV, Part D of the Social Security Act, 42 U.S.C.
14 Section 601 et seq., with timely written documentation of any change
15 in the amount of the health care cost premium, carrier, or benefits
16 within thirty (30) days of the date of the change. Upon receiving
17 timely notification of the change of cost, the other parent is
18 responsible for his or her percentage share of the changed cost of
19 the health care coverage.

20 5. If the court finds that the obligor has underpaid child
21 support due to changes in the cost of health care coverage, the
22 amount of underpayment may be established as a judgment by the court
23 and enforced in the same manner as any other delinquent child
24 support judgment. If the court finds that the obligor has overpaid
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1 due to changes in health care coverage cost, the overpayment shall
2 be satisfied:

- 3 a. by offset against any past-due child support owed to
4 the obligee, or
- 5 b. by adjustment to the future child support amount over
6 a thirty-six-month period, unless the court finds that
7 a thirty-six month period is not in the best interest
8 of the child.

9 I. Reasonable and necessary medical, dental, orthodontic,
10 optometric, psychological, or any other physical or mental health
11 expenses of the child incurred by either parent and not paid or
12 reimbursed by insurance or included in a cash medical support order
13 pursuant to subsection F of this section shall be allocated in the
14 same proportion as the adjusted gross income of the parents, unless
15 the parents agree to a different allocation of expenses and the
16 court finds such allocation is in the best interest of the child.
17 If reimbursement is required for a health care expense not included
18 in the current monthly child support obligation, the parent who
19 incurs the expense shall provide the other parent with proof of the
20 expense within forty-five (45) days of receiving the Explanation of
21 Benefits from the insurance provider or other proof of the expense
22 if the expense is not covered by insurance. The parent responsible
23 for reimbursement shall pay his or her portion of the expense within
24 forty-five (45) days of receipt of documentation of the expense.

1 For expenses of the child incurred but not paid or reimbursed by
2 insurance or included in a cash medical support order, physicians or
3 health care providers providing services to a child shall bill both
4 parents in the proportion established by the medical support order
5 for health care coverage if either parent provides such order to the
6 physician or health care provider.

7 J. In addition to any other sanctions ordered by the court, a
8 parent incurring uninsured dependent health expenses or increased
9 insurance premiums may be denied the right to receive credit or
10 reimbursement for the expense or increased premium if that parent
11 fails to comply with subsections H and I of this section.

12 K. The parent desiring an adjustment to the ongoing child
13 support order due to a change in the amount of dependent health
14 insurance premium shall initiate a review of the order in accordance
15 with Section 118I of this title.

16 SECTION 2. This act shall become effective November 1, 2020.

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